Nova Scotia

ANNUAL REPORT

for the period

April 1, 2002, to March 31, 2003

Public Prosecution Service

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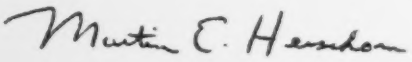
Honourable Murray Scott
Speaker of the Nova Scotia House of Assembly
Office of the Speaker
Province House
Halifax, Nova Scotia B3J 2Y3

Dear Mr. Speaker:

I have the honour of presenting to you and through you to the Members of the Legislative Assembly, the Annual Report of the Public Prosecution Service of Nova Scotia, as required by Section 13 of the *Public Prosecutions Act*. This report covers the period of April 1, 2002, to March 31, 2003.



Martin E. Herschorn, Q.C.
Director of Public Prosecutions

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THE MANDATE OF THE PUBLIC PROSECUTION SERVICE

In Nova Scotia all prosecutions for criminal and provincial offences are brought in the name of the Crown because the Crown is responsible for bringing before the courts those accused of prohibited conduct that adversely affects the safety and well being of the community.

The mandate of this prosecution service is to ensure fair and equal treatment in the prosecution of offences.

All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions and are conducted by the Crown attorneys of the Public Prosecution Service, independently of the Attorney General. The only limitation on the operational independence of the Director of Public Prosecutions arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

In support of its mandate, the Public Prosecution Service has adopted the following mission and goals.

MISSION

The mission of the Public Prosecution Service of Nova Scotia is to seek justice and serve the public interest by performing prosecution duties with fairness, professionalism, and integrity.

GOALS

In accomplishing its mission, the Public Prosecution Service contributes to the government's priority of fulfilling its social responsibility of providing for public safety.

To accomplish its mission, the Public Prosecution Service has set the following goals:

1. Provide a Public Prosecution Service that reflects professional competency, dedication to public service, and high ethical standards.

2. Provide a Public Prosecution Service that identifies and allocates the resources required to carry out its mission.

3. Provide a Public Prosecution Service that reflects the application of best business practices consistent with providing a high quality service.

4. Provide within the Public Prosecution Service an environment that allows for the independent exercise of prosecutorial discretion.

5. Provide a Public Prosecution Service that is reflective of the community it serves.

CORE BUSINESS FUNCTIONS

- Represent the Crown in the conduct of criminal matters and provincial statute matters.
- Represent the Crown in the conduct of criminal appeals before all levels of courts.
- Provide legal advice and assistance to the police and provincial law enforcement officers at their request.
- Participate in the development of criminal law policy and criminal prosecutions policy.

PRIORITIES & ACCOMPLISHMENTS FOR 2002–03

in Relation to the Service's Business Functions:

The priorities for the first three core business areas of the Service overlap significantly and thus are presented as a group.

- Represent the Crown in the conduct of criminal matters and provincial statute matters before all levels of courts.
- Represent the Crown in the conduct of criminal appeals and provincial statute appeals before all levels of courts.
- Provide legal advice and assistance to the police and provincial law enforcement officers at their request.

Court Activity

This year 84 Crown Attorneys in 18 offices across the province prosecuted 32,802 criminal offences and 3,960 NS statute matters in both Provincial Court and the Supreme Court of Nova Scotia. (See Appendix A & B)

During 2002–03, 39 appeals and 100 chambers motions were handled by the Public Prosecution Service in the Nova Scotia Court of Appeal. (See Appendix C)

Policy Enhancement

The Public Prosecution Service initiated and completed an exhaustive revision of all Crown policies this year. A series of core policies—The Decision to Prosecute; Disclosure; and Charge Resolution—were developed and implemented to ensure consistent application by all Crown attorneys. All Crown attorneys received an overview on the new policies and additional training continues to be delivered on a regional basis as required.

Education and Training

Continuing education for full-time and per-diem Crown attorneys as well as support staff remained a priority in order to enhance the level of expertise within the Public Prosecution Service and the resulting quality of prosecution services. More than $150,000 was spent on education and training during the fiscal year. Specifically, the Public Prosecution Service:

- funded the attendance of six Crown attorneys at the Federation of Law Societies National Criminal Law Program in Ottawa
- funded the Crown Attorney Annual Conference and the Public Prosecution Service Support Staff Annual Seminar held this year at Western Shore, Nova Scotia
- funded the participation of 35 Crown attorneys at the Ontario Crown Attorneys' summer school program, a valuable professional development opportunity made available to the Public Prosecution Service through the kind cooperation of the Ontario Ministry of the Attorney General
- funded a three-day education and orientation conference for some 20 new and per diem Crown attorneys
- provided training for Public Prosecution Service Crown attorneys designated as wiretap agents
- supported the requirements of the Education Development Committee to insure that Public Prosecution Service staff received required training

Information Technology

The Public Prosecution Service made great strides this year in the development of a comprehensive, computerized, offender-history information system. After extensive consultation to assess needs, the Prosecution Information Composite System (PICS) was designed and will be implemented across the province in the early months of the next fiscal year. PICS will eliminate the deficiencies of, manual information management and will greatly aid in the delivery of efficient and effective prosecutorial services.

Meanwhile, work continued on the development of a parallel information system to provide management with statistical information to assess workload and distribution of workload.

Communications

The Public Prosecution Service also continued implementation of its communications strategy. The Public Prosecution Service website was redesigned to provide criminal justice stakeholders with practical information as to the role and function of the prosecutor. The new website went live in January. Two Public Prosecution Service brochures were designed, produced, and distributed to stakeholders. The first explains the role and function of the Public Prosecution Service and of the Crown attorney. The second describes the process of a criminal prosecution.

Once again, the Public Prosecution Service had a successful meeting with representatives of Mothers Against Drunk Driving (MADD) to share perspectives about the issue of impaired driving.

In addition to these external communications initiatives, the Public Prosecution Service continued its comprehensive program of media training Crown attorneys. Crown attorneys have daily contact with the media and follow Public Prosecution Service policy to use the media as a conduit to the public to ensure that prosecutorial procedure and decisions are explained.

In terms of internal communications, the new employee orientation program continues as does the publication of the Public Prosecution Service newsletter, *On the Docket*. The bi-monthly program, Hear, Say & Eat – where a group of employees are invited to lunch with the director – continues to provide management with valuable insight from frontline employees.

This year a committee was struck to develop recommendations for a Public Prosecution Service employee recognition and wellness program. Action on those recommendations is expected in the next fiscal year.

Pre-Charge Advice

An important and increasing element of the Crown attorney's ongoing responsibilities is to provide pre-charge advice to police and provincial law enforcement officers upon their request. The Public Prosecution Service continues to allocate sufficient resources to the delivery of quality pre-charge legal opinion and this year began development of a system to record the quantity and quality of that advice. A system is being trialed in Cape Breton, New Glasgow, and in Special Prosecutions.

Quality Evaluation

The Public Prosecution Service this year developed a framework by which to build a program of in-court monitoring. In addition, significant efforts were made to decrease the use of per diem Crown attorneys. The reduction saw a savings of $60,000 in the Halifax Region alone.

Meanwhile, all Crown attorney performance appraisals were completed using the recommendations of the Performance Evaluation Committee. The committee will issue its final report in the next fiscal year

The Public Prosecution Service completed a lengthy audit of spousal partner violence cases. The audit found that although Crown attorneys are following the spousal partner violence prosecution policy, improvements were necessary in case documentation.

Public Prosecution Service management introduced a comprehensive policy on DNA orders. The policy requires Crown attorneys to request, for designated offences, that the judge order a DNA sample taken from the accused upon a finding of guilt. The DNA sample is sent to the national databank. The databank aids law enforcement to narrow the focus of current and future criminal investigations.

Public Prosecution Service management continued to handle the Crown attorney on-call requirements for the province's new Justice of the Peace initiative. By limiting the responsibilities to select management members, prosecutorial service delivery issues were more easily identified and resolved.

Participate in the development of criminal law and criminal prosecutions policy.

With the initiation of long-term strategic planning last year, the Public Prosecution Service embarked upon a series of employee focus groups to gather employee input on strategic direction. The focus groups are expected to be completed and the strategic planning process continued in the next fiscal year.

The Public Prosecution Service continued contribution to the development of criminal law policies and procedures through participation in meetings with Federal/Provincial/Territorial Ministers and Deputy Ministers responsible for Justice; CCSO (Coordinating Committee of Senior Justice Officials) and Federal/Provincial/Territorial Heads of Prosecutions; and provincial deputy ministers.

A Public Prosecution Service Crown attorney attended the Uniform Law Conference of Canada as Nova Scotia's representative to provide input on criminal law revisions/amendments.

The Public Prosecution Service also participated in provincial government policy initiatives; the standardization of documents used in courts; restorative justice; training with regard to the Domestic Violence Intervention Act; and training with regard to the Youth Criminal Justice Act.

Outcome Measures

OUTCOME	INDICATOR	MEASURE	BASE YEAR MEASURE	TARGET 2004-05	RESULTS
High quality trial work	Majority of Crown attorneys attain competent or higher designation	Performance evaluation of Crown attorneys	100%	Maintain majority attainment	Achieved
High quality appeal work	Majority of Crown attorneys attain competent or higher designation	Performance evaluation of Crown attorneys	100%	Maintain majority attainment	Achieved
Provide high quality legal advice and assistance	Consistent high quality	Supervisory assessment of legal advice (to be developed)	(to be determined)	Maintain consistent high quality	Strategies in progress
Provide Crown representation in the development of criminal law and criminal prosecutions policy	Provide representation on committees as requested	Number of Crowns who participate	59 Crown attorneys	Maintain representation	Achieved

THE ROLE OF THE ATTORNEY GENERAL

In Nova Scotia, the Minister of Justice is also the Attorney General and superintends all matters connected with the administration of justice in the province except those within the jurisdiction of the Attorney General of Canada. The Attorney General's functions and powers include legislative responsibility for affairs and matters relating to courts and prosecutions. He or she is the Law Officer of the Crown and the Chief Public Prosecutor.

By virtue of this role, the Attorney General has the right to be informed about the conduct of police activities and individual criminal prosecutions. This right is normally only exercised in exceptional cases. No such right exists for any other member of the executive council or of government. This not only protects the integrity of the criminal justice system, but serves to shield government members and their staff from the accusation of attempting to interfere in the administration of justice.

The Public Prosecutions Act ensures the accountability to the Legislative Assembly of the Attorney General in his or her capacity as Chief Public Prosecutor. Section 6 of the act provides that the Attorney General is responsible for the Public Prosecution Service and is accountable to the Assembly for all prosecutions. This ensures that ultimate control over prosecutions remains in the hands of an elected official.

By virtue of subsection 6 (a) of the Public Prosecutions Act, the Attorney General is entitled to issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the Public Prosecution Service after consultations with the Director of Public Prosecutions. During the period April 1, 2002, to March 31, 2003 the Attorney General did not have occasion to exercise his authority with this provision.

By virtue of subsection 6 (b) of the Public Prosecutions Act, the Attorney General is entitled to issue instructions or guidelines in a particular prosecution after consultation with the Director of Public Prosecutions. During the period April 1, 2002, to March 31, 2003 the Attorney General did not have occasion to exercise his authority with this provision.

By virtue of subsection 6 (e) of the Public Prosecutions Act, the Attorney General is entitled to exercise all statutory functions with respect to prosecutions after consultation with the Director of Public Prosecutions. During the period April 1, 2002, to March 31, 2003 the Attorney General did not have occasion to exercise his authority under this provision.

THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Director of Public Prosecutions is the head of the Public Prosecution Service, which conducts all prosecutions independently of the Attorney General on behalf of the Crown in right of Nova Scotia. This includes the prosecution of offences under the Criminal Code, certain other federal statutes (e.g., Migratory Birds Convention Act, Canada Shipping Act, Small Vessel Regulations, and Explosives Act), and most offences under provincial statutes. Prosecutions for violations of other federal statutes are conducted by agents of the Attorney General of Canada.

The Director of Public Prosecutions, as the lawful Deputy of the Attorney General with respect to prosecutions under the Criminal Code and under the Summary Proceedings Act, can exercise any of the powers conferred upon the Attorney General. These include the preferring of direct indictments or consenting to the laying of a new information following a discharge of an accused at a preliminary inquiry. When these powers are exercised in indictable matters, a report can be provided to the Attorney General at his or her request or upon the initiative of the Director of Public Prosecutions. This would allow the Attorney General to be in a knowledgeable position should any of these decisions be questioned in the House of Assembly or should the Attorney General wish to exercise any of the powers conferred by section 6 of the Public Prosecutions Act.

The Director of Public Prosecutions also has the status of deputy head and the provisions of the Civil Service Act and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions.

The Director of Public Prosecutions must be a barrister of at least 10 years' standing. If from another province, he or she must become a practising member of the Nova Scotia Barristers' Society within one year of appointment. The Director of Public Prosecutions holds office during good behaviour and may be removed from office for cause by a resolution of the Assembly.

THE ROLE OF THE CROWN ATTORNEY

Crown attorneys in Nova Scotia are responsible to the Director of Public Prosecutions through a Chief Crown attorney for the conduct of prosecutions. The conduct of a prosecution involves not only the conduct of the trial itself but a myriad of other activities essential to a fair prosecution. Crown attorneys therefore conduct arraignments, show cause (bail) hearings, preliminary inquiries, sentencings, appeals to the Supreme Court of Nova Scotia, appeals to the Court of Appeal, appeals to the Supreme Court

of Canada, disposition and review hearings before the Criminal Code Review Board, and fatality inquiries. In addition, they provide pre-charge advice to the police and provincial government enforcement officials, participate in the formulation of policy advice on the criminal law, participate in management activities aimed at improving the delivery of prosecutorial services to our community, prepare professional papers, and conduct and participate in public speaking engagements. In short, they discharge a number of responsibilities of fundamental importance to our community.

In discharging these responsibilities a Crown attorney must be guided by the law, codes of professional ethics, and the public interest. The public interest involves many considerations. It encompasses the need to protect citizens by convicting criminals and deterring crime. The community is entitled to have those charged with offences prosecuted firmly and efficiently, but it also expects them to be prosecuted fairly. Properly balanced, the public interest in the conviction of the guilty does not conflict with the principles of fundamental justice.

The notion that all accused should receive fair and equal prosecutorial treatment by the Crown is an aspect of the rule of law. Canada's judicial system operates on an adversarial trial model. It is left up to the parties to frame the issues before the court and lead the evidence relied on in support of their case. The role of defence counsel in this model is to do everything that can be ethically done to secure an acquittal for an accused who has chosen to plead not guilty. The role of Crown attorney, on the other hand, excludes any notion of winning or losing. The Supreme Court of Canada has expressed the proper frame of mind of those who represent the Crown in the following words:

"... the situation which the Crown occupies is not that of an advocate in a civil case. His functions are quasi-judicial. He should not seek so much to obtain a verdict of guilty as assist the judge and jury to render the most complete justice. Moderation and impartiality should always characterize his conduct before the court. He will in fact have honestly fulfilled his duty and will be beyond reproach, if, putting aside any appeal to emotions, in a dignified manner consistent with his role, he exposes the evidence to the jury without going beyond what it actually reveals" *

On March 31, 2003, there were 84 Crown attorneys employed by the Public Prosecution Service. They were assisted in their duties by 60 support staff.

* *Boucher v. Her Majesty the Queen [1955] S.C.R. 16*

ORGANIZATION DESCRIPTION

The head office of the Service comprises its senior management, including the Director of Public Prosecutions, the Deputy Director, the Chief Crown Attorney (Appeals), the Chief Crown Attorney (Special Prosecutions), the Director of Communications, the Manager of Administrative Services, and their support staff.

The Deputy Director assists the Director and is primarily responsible for the legal operations of the Service. Five Chief Crown Attorneys report through the Deputy Director to the Director and are resident in the Western, Cape Breton, Halifax, and Central regions. In the Halifax Region, two Chief Crown Attorneys supervise the activities of Crown attorneys together with their support staff. In the Western, Central, and Cape Breton regions, a Chief Crown Attorney supervises the activities of Crown attorneys and their support staff. The regional offices respond to requests from the police for pre-charge legal advice, and conduct preliminary inquiries and trials before the various trial courts of the province.

Special Prosecutions Section

This section primarily focuses on commercial crime, fraud, extraordinary, unusual or historical sexual assaults, and charges under the province's Revenue Act. Members of this unit also prosecute cases that present conflicts for regional offices, or may be involved where a law enforcement officer is the subject of a police investigation or a prosecution.

Appeals Branch

This branch is responsible for conducting all criminal and quasi-criminal appeals to which the Attorney General is a party in the Nova Scotia Court of Appeal and the Supreme Court of Canada. The Appeals Branch also conducts all proceedings required before an appeal is heard by the court. These proceedings include Chambers motions in the Court of Appeal and applications for leave to appeal in the Supreme Court of Canada.

Freedom of Information and Protection of Privacy Act

The Service's coordinator for the Freedom of Information and Protection of Privacy Act is also located in the head office. For the period April 1, 2002, to March 31, 2003, the Service received 43 applications for records under this act.

The organizational structure of the Public Prosecution Service is illustrated by the chart on page 20.

ORGANIZATIONAL STRUCTURE

Director of Public Prosecutions
Director of Communications
Manager, Administrative Services
Deputy Director of Public Prosecutions
Chief Crown Attorney Special Prosecutions Section
Crown Attorneys Support Staff
Chief Crown Attorney Halifax Region 2 Positions
Crown Attorneys Support Staff
Chief Crown Attorney Western Region
Crown Attorneys Support Staff
Chief Crown Attorney Central Region
Crown Attorneys Support Staff
Chief Crown Attorney Cape Breton Region
Crown Attorneys Support Staff
Chief Crown Attorney Appeals Branch
Crown Attorneys Support Staff

APPENDICES

APPENDIX A
CRIMINAL CODE CASES PROSECUTED BY OFFICE BY CATEGORY OF OFFENCE

	Amherst	Antigonish	New Glasgow	Truro	Sydney	Port Hawkesbury
Homicide & Related	0	0	2	0	5	0
Attempted Murder	2	1	1	0	3	0
Robbery	5	0	6	20	16	7
Sexual Assault	19	7	20	23	70	39
Sexual Abuse	7	0	2	11	9	15
Kidnaping	13	1	2	6	6	1
Abduction	0	1	1	0	0	0
Break & Enter	166	11	70	204	124	43
Weapons	41	13	36	72	110	15
Fraud	76	18	56	384	183	26
Major Assault	73	24	64	138	249	20
Minor Assault	132	57	170	302	582	62
Theft	141	58	128	341	357	72
Stolen Property	59	6	43	262	129	25
Arson	15	0	4	11	9	1
PD - Mischief	91	33	51	169	206	48
Morals - Sex	2	0	1	2	4	0
Morals - Gambling	0	0	0	0	7	0
Public Order	8	4	9	33	28	6
CC Traffic	21	21	31	47	41	11
Admin. of Justice	312	206	299	674	1154	153
Impaired Driving	221	157	267	390	450	163
Other Criminal Code	79	57	99	160	491	62
Total	**1483**	**675**	**1362**	**3249**	**4233**	**769**

APPENDIX A *(continued)*
CRIMINAL CODE CASES PROSECUTED BY OFFICE
BY CATEGORY OF OFFENCE

	Halifax	Dartmouth	Bridgewater	Kentville	Digby	Yarmouth	Provincial Totals
Homicide & Related	4	1	0	1	0	0	13
Attempted Murder	15	8	0	0	10	0	40
Robbery	245	128	8	19	3	4	461
Sexual Assault	114	68	16	54	20	40	490
Sexual Abuse	44	38	8	17	19	20	190
Kidnaping	47	37	3	11	0	5	132
Abduction	0	0	0	0	0	0	2
Break & Enter	219	106	120	156	52	66	1337
Weapons	372	214	51	64	40	36	1084
Fraud	434	341	136	118	38	42	1854
Major Assault	494	256	46	89	45	69	1567
Minor Assault	778	603	156	230	106	196	3374
Theft	946	530	128	224	84	84	3093
Stolen Property	997	499	55	112	30	50	2267
Arson	23	5	1	5	2	3	79
PD - Mischief	450	202	79	136	64	98	1627
Morals - Sex	112	176	2	5	8	3	315
Morals - Gambling	0	0	0	0	0	0	7
Public Order	35	37	29	19	24	56	288
CC Traffic	114	97	46	38	30	24	521
Admin. of Justice	2475	1103	333	502	229	398	7838
Impaired Driving	626	580	186	346	156	187	3729
Other Criminal Code	582	513	98	155	77	121	2494
Total	9126	5542	1503	2321	1037	1502	32802

APPENDIX B
PROVINCIAL STATUTE CASES
PROSECUTED BY OFFICE* BY CATEGORY OF OFFENCE

	Motor Vehicle Act	Liquor Control Act	Other Provincial Statutes	Total
Halifax	610	22	89	721
Dartmouth	490	10	76	576
Amherst	80	19	49	148
Antigonish	64	25	88	177
New Glasgow	96	47	67	212
Truro	274	5	61	340
Sydney	210	54	108	372
Port Hawkesbury	60	7	18	85
Bridgewater	168	29	76	273
Kentville	355	48	63	466
Yarmouth	175	60	72	307
Digby	210	39	74	323
Total	2754	365	841	3960

* These statistics represent only those cases where a prosecutor was assigned. These figures do not include those cases where the offender did not contest and paid a fine.

APPENDIX C
APPEALS BRANCH STATISTICS

The Branch participated in 39 appeals heard by the Court of Appeal.

Of this number:

- 12 were initiated by the Crown
- 27 were initiated by the offender
- 5 involved young offenders

Of the 12 appeals initiated by the Crown:

- 5 dealt with acquittals
- 3 dealt with the refusal of DNA orders
- 3 dealt with sentence
- 1 dealt with an application to quash notice of appeal

Of the 27 appeals initiated by offenders:

- 15 dealt with conviction only
- 4 dealt with sentence only
- 6 dealt with conviction and sentence
- 1 dealt with a bail review
- 1 dealt with a Review Board decision

The Appeals Branch also participated in 13 appeals that were abandoned, quashed, or dismissed without a full hearing in the Court of Appeal.

Of these:

- 5 were initiated by the Crown
- 8 were initiated by the offender

The Appeals Branch also participated in 100 chambers motions, which are applications heard by a single judge of the Court of Appeal. Chambers motions include applications for hearing dates, adjournments, bail pending appeal, extensions of time for appeal, directions in a particular appeal, and striking appeals from the Court's docket.

The Appeals Branch filed one notice of leave application to the Supreme Court of Canada and responded to two such notices filed by defendants.

Counsel in the Appeals Branch continue to be involved in a lengthy summary conviction appeal involving a violation of the Crown Lands Act. The accused, all aboriginals in Nova Scotia, were convicted at trial in Provincial Court on charges of illegally cutting timber on Crown lands. The trial record was lengthy – approaching 30,000 pages of transcript and exhibits. The appeal was heard by a Supreme Court judge in February 2002 and argued in the Nova Scotia Court of Appeal over four days in March 2003.

APPENDIX D
BUDGET RESOURCES

Core Business Areas	Budget 2002-03 (000s)	Actual 2002-03 (000s)
Represent the Crown in the conduct of criminal and quasi-criminal matters before all levels of court.	$13,366.6	$13,145.8
Represent the Crown in the conduct of criminal appeals before all levels of courts.	888.4	981.5
Provide legal advice and assistance to the police and provincial law enforcement officers at their request.	Included	Included
Participate in the development of criminal law and criminal prosecutions policy.	Included	Included
Total	**$14,255.0**	**$14,127.3**
Salaries and Benefits	$10,708.0	$10,557.2
Funded Staff (FTEs)	149.4	144.6

APPENDIX E
PUBLIC PROSECUTIONS ACT

AN ACT TO PROVIDE FOR AN INDEPENDENT DIRECTOR OF PUBLIC PROSECUTIONS

Short Title

1 This Act may be cited as the Public Prosecutions Act.

Purpose of Act

2 The purpose of this Act is to ensure fair and equal treatment in the prosecution of offences by

(a) establishing the position of Director of Public Prosecutions;

(b) providing for a public prosecution service; and

(c) providing for the independence of the Director of Public Prosecutions and the public prosecution service.

Interpretation

3 In this Act, "prosecution" includes the decision whether to prosecute or not, the prosecution proceeding itself and matters arising therefrom, and appeals.

4 There shall be a Director of Public Prosecutions who

(a) is the head of the public prosecution service and is responsible for all prosecutions within the jurisdiction of the Attorney General conducted on behalf of the Crown;

(b) may conduct all prosecutions independently of the Attorney General except that the Director of Public Prosecutions shall comply with all instructions or guidelines issued by the Attorney General in writing and published pursuant to this Act;

(c) is, for the purpose of the Criminal Code (Canada) and the Summary Proceedings Act, the Attorney General's lawful deputy in respect of prosecutions;

(d) shall advise police officers in respect of prosecutions generally or in respect of a particular investigation that may lead to a prosecution when the police request such assistance;

(e) may issue general instructions or guidelines to a chief Crown attorney, a regional Crown attorney or a Crown attorney in respect of all prosecutions or a class of prosecutions, and shall cause such instructions or guidelines to be published;

(f) may issue instructions or guidelines to a chief Crown attorney, a regional Crown attorney or a Crown attorney in a particular prosecution.

Qualifications and appointment

5 (1) The Director of Public Prosecutions

(a) shall be a barrister of at least ten years standing at the Bar of Nova Scotia or of another province of Canada, and if of another province, shall, within one year of appointment, become a practising member of the Bar of Nova Scotia;

(b) shall be appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia, the Chief Justice of the Trial Division of the Supreme Court and the Executive of the Nova Scotia Barristers' Society;

(c) holds office during good behaviour;

(d) has the status of deputy head and the provisions of the Civil Service Act and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions; and

(e) shall be paid the same salary as the Chief Judge of the provincial court.

Removal from office

(2) The Director of Public Prosecutions may be removed from office for cause by a resolution of the Assembly.

Acting Director of Public Prosecutions

(3) Where, while the Assembly is not sitting, the Director of Public Prosecutions fails to be of good behaviour, or is unable to perform the duties of office, the Governor in Council may appoint a person to be Acting Director of Public Prosecutions who shall take over the duties of the Director of Public Prosecutions until the Governor in Council sooner rescinds the appointment of the Acting Director of Public Prosecutions. *As amended by 1999 (2nd session), c.16, s.1(1).*

(4) Where a vacancy occurs in the office of the Director of Public Prosecutions in a manner other than that referred to in subsection (2), the Governor in Council may appoint a person to be Acting Director of Public Prosecutions until a Director of Public Prosecutions is appointed pursuant to this Act. *As amended by 1999 (2nd session) c.16, s.1(2).*

Power and duties of Attorney General

6 The Attorney General is the minister responsible for the prosecution service and is accountable to the Assembly for all prosecutions to which this Act applies and

(a) after consultation with the Director of Public Prosecutions, may issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the prosecution service and shall cause all such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette;

(b) after consultation with the Director of Public Prosecutions, may issue instructions or guidelines in a particular prosecution, and shall cause such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette except where, in the opinion of the Director of Public Prosecutions, publication would not be in the best interests of the administration of justice, in which case the Director of Public Prosecutions, instead, shall publish as much information concerning the instructions or guidelines as the Director of Public Prosecutions considers appropriate in the next annual report of the Director of Public Prosecutions to the Assembly;

(c) may consult with the Director of Public Prosecutions and may provide advice to the Director of Public Prosecutions and, subject to clauses (a) and (b), the Director of Public Prosecutions is not bound by such advice;

(d) may consult with members of the Executive Council regarding general prosecution policy but not regarding a particular prosecution;

(e) may exercise statutory functions with respect to prosecutions, including consenting to a prosecution, preferring an indictment or authorizing a stay of proceedings, after consultation with the Director of Public Prosecutions and shall cause notice of such action to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette. *As amended by 1999 (2nd session) c.16, s.2.*

6A The Attorney General and the Director of Public Prosecutions shall meet at least twelve times a year, on a monthly basis if possible, to discuss policy matters, including existing and contemplated major prosecutions. *As amended by 1999 (2nd session) c.16, s.3.*

6B (1) In this Section, "extraordinary prosecution" means an unexpected or unforeseen prosecution that cannot be undertaken within the budget appropriated for the public prosecution service but is of such a magnitude and importance that, in the opinion of the Director of Public Prosecutions, the prosecution should be undertaken notwithstanding the lack of financial resources.

(2) The Director of Public Prosecutions may spend in any fiscal year an amount that is not more than five per cent more than the amount appropriated for the public prosecution service for that year for the purpose of undertaking an extraordinary prosecution.

(3) The Governor in Council shall provide the additional funds referred to in subsection (2) through a supplementary appropriation.

(4) Where the Governor in Council has provided the funds referred to in subsection (3) and deems it advisable to conduct a review of the need for the additional funds, the Governor in Council may appoint a qualified person to conduct the review. *As amended by 1999 (2nd session) c.16, s.3.*

Deputy Director of Public Prosecutions

7 The Director of Public Prosecutions may, from time to time, designate a barrister in the public service to be Deputy Director of Public Prosecutions who is responsible to the Director of Public Prosecutions and who may exercise all of the powers and authority of the Director of Public Prosecutions and, for that purpose, is a lawful deputy of the Attorney General.

Crown attorneys

8 There shall be Crown attorneys to conduct prosecutions and the Crown attorneys are responsible to the Director of Public Prosecutions and, where applicable, to a chief Crown attorney or a regional Crown attorney.

Regional Crown attorneys

9 There may be a regional Crown attorney to supervise Crown attorneys within a geographic area determined by the Director of Public Prosecutions, and a regional Crown attorney is responsible to the Director of Public Prosecutions.

Chief Crown attorneys

10 There may be a chief Crown attorney to supervise Crown attorneys and, where applicable, regional Crown attorneys, and a chief Crown attorney is responsible to the Director of Public Prosecutions.

Powers, authorities and duties

11 A chief Crown attorney, a regional Crown attorney and a Crown attorney have all the powers, authorities and duties provided by the criminal law of Canada for prosecutors, for prosecuting officers or for counsel acting on behalf of the Attorney General.

Qualifications

12 All chief Crown attorneys, all regional Crown attorneys and all full-time Crown attorneys shall be barristers appointed pursuant to the Civil Service Act upon the recommendation of the Director of Public Prosecutions after a competition.

Annual report

13 The Director of Public Prosecutions shall report annually to the Assembly in respect of prosecutions.

Appointment of barrister

14 (1) The Director of Public Prosecutions may appoint a barrister to take charge of and conduct a particular prosecution or to take charge of and conduct criminal business to the extent specified in the terms of the appointment.

Powers and authority of barrister

(2) A barrister appointed pursuant to this Section shall be known and designated as a Crown attorney and, when acting within the terms of the appointment, has all the powers and authority of a Crown attorney.

Terms of appointment

(3) The Director of Public Prosecutions may, from time to time, vary the terms of appointment of a Crown attorney pursuant to this Section or may, at any time, revoke the appointment.

Existing prosecuting officers

15 Notwithstanding Section 12, all prosecuting officers and assistant prosecuting officers employed by the Province immediately before the coming into force of this Act are Crown attorneys for the purpose of this Act.

House of Assembly Act amended

16 Clause (c) of subsection (1) of Section 30 of Chapter 210 of the Revised Statutes, 1989, the House of Assembly Act, is amended by striking out the punctuation and words "prosecuting officer" in the second and third lines thereof.

Repeal of Prosecuting Officers Act

17 Chapter 362 of the Revised Statutes, 1989, the Prosecuting Officers Act, is repealed.

Proclamation

18 This Act comes into force on and not before such day as the Governor in Council order and declares by proclamation.

Proclaimed - July 24, 1990
In force - September 1, 1990
Amended by Chapter 16, 1999 (Second Session)
which received Royal Assent on November 23, 1999